IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.43389-M of 2006
Date of Decision:- 18.1.2007

Baljit Kaur ....Petitioner(s)

through
Mr.H.S.Gill, Sr.Advocate with
Mr.R.K.Dhiman, Advocate.

vs.

State of Haryana & anr. ....Respondent(s)

through
Mr.R.D.Sharma, DAG, Haryana.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

The prayer in this petition under Section 482 Cr.P.C. is for quashing of the criminal complaint titled as **Harbans Singh vs. Baljit Kaur** under Section 409 IPC pending in the Court of learned Judicial Magistrate, Ist Class, Kurukshetra (Annexure P-1) as also the summoning order dated 2.12.2005 (Annexure P-2) passed therein.

The petitioner is widow of late Jarnail Singh son of Kartar Singh. During his life-time, Jarnail Singh got a life insurance policy for Rs.2 lacs wherein the petitioner, being his wife, was made the sole nominee. The petitioner's husband (Jarnail Singh) expired on 20.1.2004 and in her capacity as the sole nominee, she received a sum of Rs.3,89,400/- from the Insurance Corporation towards the said insurance policy.

The impugned complaint has now been filed by Harbans Singh-respondent No.2, *inter alia,* alleging that deceased Jarnail Singh was married to his daughter Karamjit Kaur also and out of the said wedlock, two

minor children, namely, Jaskiran and Gurkiran were born. Alleging further that Jarnail Singh in his life time had executed a registered Will dated 11.7.2003 whereby he deprived of his daughter Sukhwinder Kaur from inheriting any of his movable or immovable properties including the amount of the insurance policy. As per the said Will, the complainant's daughter, her two minor children as well as the petitioner are the only Class-I legal heirs of deceased Jarnail Singh and are entitled to inherit his estate in equal shares. The complainant also alleged that despite the said Will executed by deceased Jarnail Singh, the petitioner has dishonestly misappropriated the entire payment received in lieu of Insurance policy, including shares of Jaskiran, Gurkiran (minor children) and her daughter Karamjit Kaur.

Learned Judicial Magistrate, Ist Class, Kurukshetra vide his order dated 2.12.2005 (Annexure P-2) summoned the petitioner in the above-stated complaint.

Seeking quashing of the above-mentioned criminal complaint as well as the summoning order, this petition under Section 482 Cr.P.C. has been filed.

Notice of motion was issued and in response thereto, respondent No.2-the complainant has not put in appearance despite service.

It is the specifically pleaded case of the petitioner that a civil suit regarding *inter-se* dispute over inheritance of the estate of deceased Jarnail Singh is pending between the parties. It is in the said civil suit only that it would be decided as to whether Karamjit Kaur was also the legally wedded wife of the deceased Jarnail Singh. Similarly, the entitlement of the legal heirs to inherit the estate of Jarnail Singh and their respective shares would also be determined by the Civil Court in the said suit.

More so, there appears to be no dispute that the petitioner was the sole nominee, nominated by Jarnail Singh in the Insurance policy. Apparently, the receipt of insurance amount by the petitioner in terms of that nomination, cannot be termed as misappropriation of the policy amount, which, according to the complainant, ought to have been inherited and equally shared by his daughter Karamjit Kaur, her two minor children and the petitioner.

Be that as it may, the dispute is purely of a civil nature and the impugned criminal complaint as well as the summoning order are nothing but an abuse of process of law.

Consequently and for the reasons aforestated, this petition is allowed; the impugned complaint Annexure P-1 and the summoning order Annexure P-2 as also any other subsequent proceedings arising therefrom, are hereby quashed.

January 18, 2007 **(SURYA KANT)**
poonam **JUDGE**